

Application No. 09/712042
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Amendment
Attorney Docket No. S63.2N-6430-US03

Remarks

This Amendment is in response to the Office Action dated September 14, 2004.
Each issue is discussed in detail below.

§102(b)/103(a) Rejections

Claims 19-20 and 30-44 were rejected under 35 USC §102(b) as anticipated by, or in the alternative, under 35 USC §103(a) as obvious over Chen et al. (US 5554120) in view of Onwunaka et al. (US 5281677) or Alzner (US 5458935). It is asserted in the official action that Chen et al. teach all the limitations of the claims (note summary) except for specific polyurethane resins and polyurethane elastomers, as recited by Applicant. However, it is further asserted that both Onwunaka et al. and Alzner teach polymer blends for use in making medical devices, including catheters and balloons for catheters. Specifically, it is asserted, they teach a combination of polymeric components providing characteristics in forming medical instruments such as catheters and balloons, wherein the first or second polymeric components are polyurethane resins and polyurethane elastomers, as recited by Applicant. It is the Examiner's position that the physical properties are inherent to the blends as recited in the patents. In the alternative, if Applicant disagrees that the physical properties are inherently described in the blends as recited above, it is the Examiner's position that, although the references do not expressly disclose the physical properties required by the claims, it would have been an obvious matter of design choice to a person of ordinary skill in the art to choose any polyurethane resin and elastomer blend that may result in the properties disclosed by Applicant. It is asserted in the official action that Applicant has not disclosed that a specific distension profile, flexural modulus, wall strength or burst pressure provides an advantage, is used for a particular purpose, or solves a stated problem. The official action asserts further that one of ordinary skill in the art would have expected Applicant's invention to perform equally well with either of the blends taught by Onwunaka et al. or Alzner or several other polyurethane resin/elastomer blends or any blend with a flexural modulus of 250,000, a wall strength of 15,000, a burst pressure of 13 atm, because all of the blends cited by the prior art perform functions of balloon catheters equally well and are well known in the art of balloon catheters materials for several medical procedures, such as angioplasty.

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Applicant respectfully traverses. As to the §102 anticipation rejection, the rejection fails, because, among other reasons and as it is stated in the official action, Chen et al. does not disclose the specific polyurethane resins and polyurethane elastomers as recited in the claims.

As to the §103 obviousness rejection, the rejection fails because, among other reasons, the cited art does not set forth a prima facie case by not teaching a melt blend of engineering polyurethane resins and polyurethane elastomers within the required flexural modulus range. As required by claim 1, the engineering polyurethane resins must have a flexural modulus of 240,000 psi or greater and the polyurethane elastomers must have a flexural modulus of 150,000 psi. A search of polyurethane resins at MatWeb.com shows very few polyurethanes having a flexural modulus even near 240,000 psi. Without a specific teaching, there is no reason to believe that one would have a motivation to choose a polyurethane resin having such a high flexural modulus and then combine it with a polyurethane elastomer having a flexural modulus at about 150,000 psi or less.

Both Alzner and Onwunaka et al. are silent as to any such a teaching. The polyurethane resins that are mentioned in Alzner, Pellethane 2363-65D and Pellethane 2363-75D (see Attachments A and B), have flexural modulus values of 32.1 ksi and 189 ksi, respectively. These values are far below the required 240,000 psi upper level. With regard to Onwunaka et al., no values are given, however, as mentioned above, there is no teaching motivating one to choose resins having such a high flexural modulus value, especially since there are so few that have such a value. As such, the cited references fail to provide teachings for the required mixture of resins which are within the claimed flexural modulus range.

For the reasons stated above and because of the fact that neither Alzner or Onwunaka et al. discuss medical balloons, as pointed out in Applicant's response to the previous official action issued on 2/11/04, the rejection fails. Withdrawal of the rejections is therefore requested.

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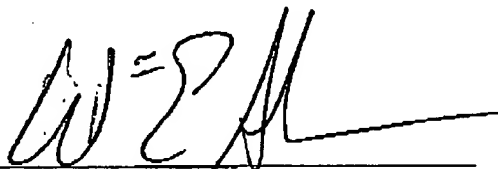
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The claims are now believed to be in condition for allowance. The prompt allowance of these claims is earnestly solicited. If the Examiner wishes to discuss further issues, he is invited to contact the undersigned.

Respectfully submitted,

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Enclosures: Attachment A
Attachment B

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